

Department of Justice

§ 68.14

good faith effort to reach stipulation to the fullest extent possible;

(3) Facts in dispute;

(4) Witnesses, except to the extent that disclosure would be privileged, and exhibits by which disputed facts will be litigated;

(5) A brief statement of applicable law;

(6) The conclusions to be drawn;

(7) The estimated time required for presentation of the party's or parties' case; and

(8) Any appropriate comments, suggestions, or information which might assist the parties or the Administrative Law Judge in preparing for the hearing or otherwise aid in the disposition of the proceeding.

[54 FR 48596, Nov. 24, 1989. Redesignated by Order No. 1534-91, 56 FR 50053, Oct. 3, 1991]

§ 68.13 Conferences.

(a) *Purpose and scope.* (1) Upon motion of a party or in the Administrative Law Judge's discretion, the judge may direct the parties or their counsel to participate in a prehearing conference at any reasonable time prior to the hearing, or in a conference during the course of the hearing, when the Administrative Law Judge finds that the proceeding would be expedited by such a conference. Prehearing conferences normally shall be conducted by conference telephonic communication unless, in the opinion of the Administrative Law Judge, such method would be impractical, or when such conferences can be conducted in a more expeditious or effective manner by correspondence or personal appearance. Reasonable notice of the time, place, and manner of the prehearing conference shall be given.

(2) At the conference, the following matters may be considered:

(i) The simplification of issues;

(ii) The necessity of amendments to pleadings;

(iii) The possibility of obtaining stipulations of facts and of the authenticity, accuracy, and admissibility of documents, which will avoid unnecessary proof;

(iv) The limitations on the number of expert or other witnesses;

(v) Negotiation, compromise, or settlement of issues;

(vi) The exchange of copies of proposed exhibits;

(vii) The identification of documents or matters of which official notice may be requested;

(viii) A schedule to be followed by the parties for completion of the actions decided at the conference; and

(ix) Such other matters, including the disposition of pending motions, as may expedite and aid in the disposition of the proceeding.

(b) *Reporting.* A verbatim record of the conference will not be kept unless directed by the Administrative Law Judge.

(c) *Order.* Actions taken as a result of a conference shall be reduced to a written order, unless the Administrative Law Judge concludes that a stenographic report shall suffice, or, if the conference takes place within seven (7) days of the beginning of the hearing, the Administrative Law Judge elects to make a statement on the record at the hearing summarizing the actions taken.

[54 FR 48596, Nov. 24, 1989. Redesignated by Order No. 1534-91, 56 FR 50053, Oct. 3, 1991]

§ 68.14 Consent findings or dismissal.

(a) *Submission.* Where the parties or their authorized representatives or their counsel have entered into a settlement agreement, they shall:

(1) Submit to the presiding Administrative Law Judge:

(i) The agreement containing consent findings; and

(ii) A proposed decision and order; or

(2) Notify the Administrative Law Judge that the parties have reached a full settlement and have agreed to dismissal of the action. Dismissal of the action shall be subject to the approval of the Administrative Law Judge, who may require the filing of the settlement agreement.

(b) *Content.* Any agreement containing consent findings and a proposed decision and order disposing of a proceeding or any part thereof shall also provide:

(1) That the decision and order based on consent findings shall have the same force and effect as a decision and order made after full hearing;

(2) That the entire record on which any decision and order may be based